EXHIBIT H

EXHIBIT 33

FILED UNDER SEAL

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

IN RE:)

) Case No.

VALVE ANTITRUST LITIGATION) 2:21-cv-00563-JCC

)

VIDEOTAPED 30(B)(6) DEPOSITION UPON ORAL EXAMINATION OF

VALVE CORPORATION

DJ POWERS

9:00 A.M.

SEPTEMBER 29, 2023

WILSON SONSINI

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SEATTLE, WASHINGTON

(CONTAINS CONFIDENTIAL TESTIMONY SUBJECT TO PROTECTIVE ORDER FOR ATTORNEYS' EYES ONLY)

REPORTED BY: JUDY BONICELLI, RPR, CCR 2322, CA 9091

publishers, does Valve look at where -- at what price the game is being sold in other stores?

A. No.

Q. It does not?

A. No.

Q. Okay. With respect to the refund policy, is there a time limit on how long someone is allowed to play the game before they're not allowed a refund any more?

A. Yes.

Q. What's that time limit?

A. Two hours.

Q. So if they purchase a game and they don't play the game, is there a time limit before they can get a refund?

A. If they purchase the game and don't play the game? Yes, there's two weeks.

Q. Two weeks. Okay. So it's pretty common for people on Steam to have a library of games that they might have purchased but not necessarily played; is that right?

A. Yeah.

Q. So they either have a limit of playing it for two hours as recorded by Steam itself; is that right?

A. Yes.

Q. Or the alternative is two weeks of time that they have had it in their library?

A. Yes.

Q. And am I correct that Valve's policy is that publishers can offer discounts elsewhere for games but then have to run a similar discount in roughly the same timeframe on Steam?

A. Yeah, our policy is not exactly that. Our policy -- well, I don't know if you have the -- it's written down in the Steam key documentation. If you have it, I can read it to you.

Q. But is that generally your understanding, that if someone runs -- if a publisher runs a discount on their game on a different store, that roughly the same discount in roughly the same time period has to be run on Steam itself?

A. I'd like to be as specific as possible since it's important. So if you have the Steam key documentation, I could read it back to you.

Q. Well, I'm actually trying to understand about Valve's actual practices.

A. Okay.

Q. And my question is, is it Valve's practice of telling publishers or discussing with publishers that if they run a discount on other stores or elsewhere,

that they need to run roughly the same discount in roughly the same time period on Steam?

A. Our policy is that we would like publishers to offer customers a fair deal, a similar deal to other platforms. I'd love to have the exact words to read to you, but.

Q. We'll go through several documents today.

A. Great.

Q. But a "fair deal," let's talk about what you mean by that.

A. Sure.

Q. What is a fair deal when you use that terminology here?

A. It's offering customers the same value. A product for the same price, same value as other platforms. Similar price, similar value.

Q. Do you think that Steam offers -- as a platform, offers unique value to users, to gamers?

A. Yeah.

Q. So unique benefits to the Steam platform in your personal view?

A. To the platform, yes.

Q. Are there reasons why Steam users might be willing to pay a higher price on Steam for the same game?

A. Not really.

Q. Now, when it comes to pricing of games on Steam, Valve actually insists that publishers price the game roughly the same on Steam and elsewhere, regardless of whether they're selling Steam key versions of the game; is that right?

A. Can you say that again?

Q. Yes. When it comes to pricing of games on Steam, Valve actually requires publishers to price their game the same across different types of stores or platforms, regardless of whether they're selling Steam keys -- Steam key versions on other stores?

A. No.

(Exhibit 55 marked for identification.)

BY MR. WOLFSON:

Q. All right. Mr. Powers, you've been handed what's been marked as Exhibit 55, and this bears Bates Valve_ANT_0598921 and continues through 8925. I'm actually going to ask you various things about this email, so feel free to take a read-through.

A. Okay.

Q. So you've read the email chain?

A. Yes.

Q. Okay, was this one of the emails that you reviewed in preparation for your testimony today?

A. No.

Q. Now, to level set here, this refers to Humble Bundle, and I don't know if you testified about this yesterday, but to your understanding, what is Humble Bundle when it comes to PC games?

A. Humble Bundle is a company that offers PC games bundled up so you can buy ten games at once.

Q. And often what happens with Humble Bundle is that they will have different pricing levels. You pay what you want. Is that fair?

A. They've had various ways of selling bundles, but yeah, that is one.

Q. Okay. And when there is a model or an offer for Humble Bundle, you pay a certain amount. If it's above average for that sale, you can get more games or more benefits from the sale; is that right?

A. That's one of the models they use, yeah.

Q. And in other models that they've used, they'll just sell a bundle of games for a set price; is that right?

A. Yes.

Q. Now, sometimes they'll do it for, say, for example, charity events to raise money for charities; is that right?

A. I don't know. I think part of their business

model is to send money to charities, but I don't know the details.

Q. Okay. Now, here, what's happening is Mr. Giardino is explaining -- well, is explaining Valve's policies to a company called [redacted] that is trying to sell its game both on Steam and in Humble Bundle, right?

A. Yes.

Q. Okay. And what happened is they, based on this email chain, is that he was refusing to grant Steam keys to this company because, according to him, the game was being sold for less as part of the Humble Bundle than on Steam. Is that your understanding?

A. Yes.

Q. Now, I asked you before that if the company was selling a game for less, even if it was not using Steam keys for that, it's Valve's policy to disallow that company from selling on Steam if they sold it for less elsewhere, and your testimony was no, that's not Valve's policy. Do you recall that?

A. Yes.

Q. Now, if you look at page 923. It's the, I want to say, third page in the email chain.

A. Yep.

Q. An email from Mr. Giardino, Monday, May 22nd,

A. I would assume.

Q. Okay. And Uplay was also a platform?

A. Uplay is a platform.

Q. And a platform kind of like Steam where you can keep libraries of games, keep track of achievements, et cetera?

A. Yes.

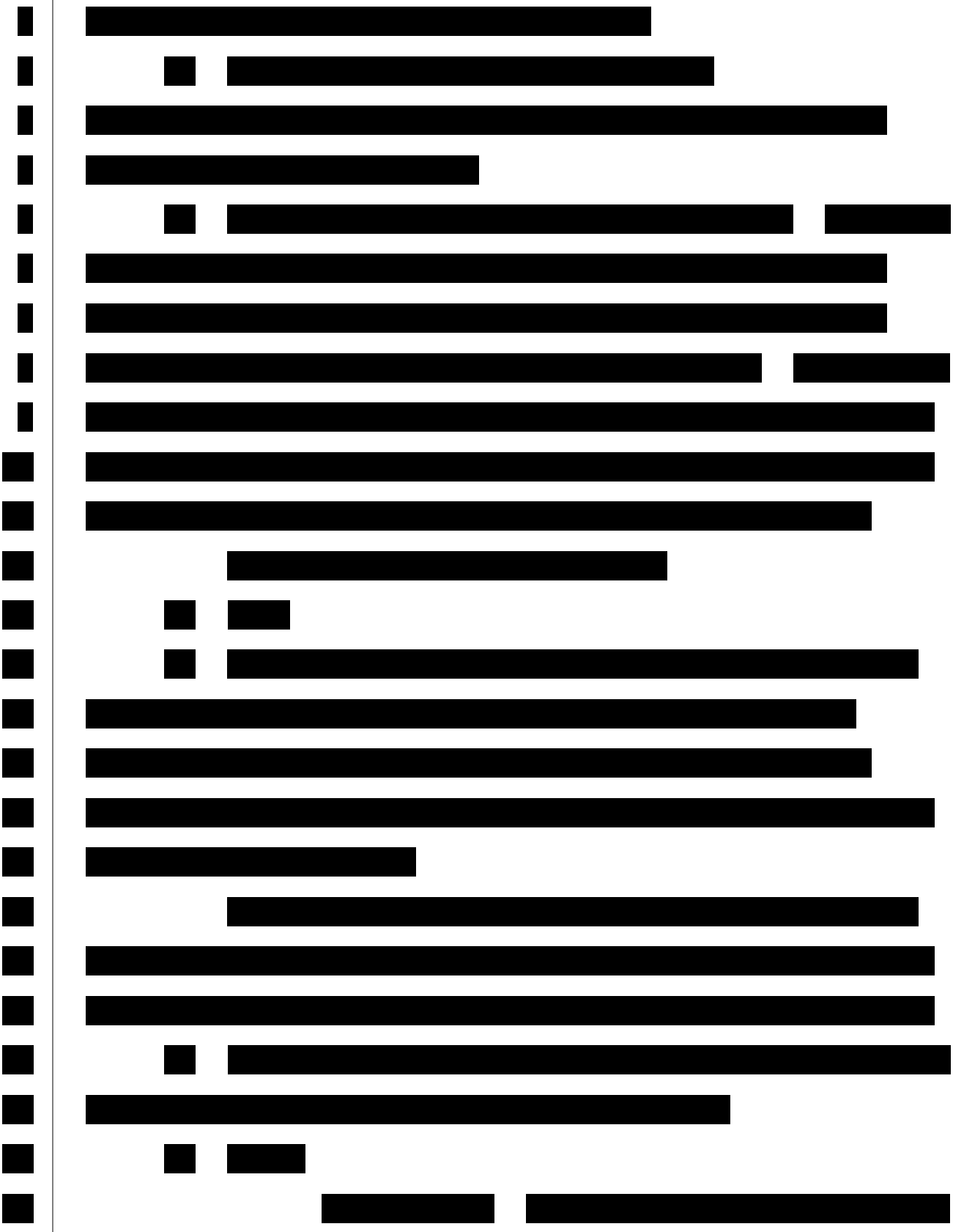
Q. Okay. And so here he also mentions Uplay keys, right?

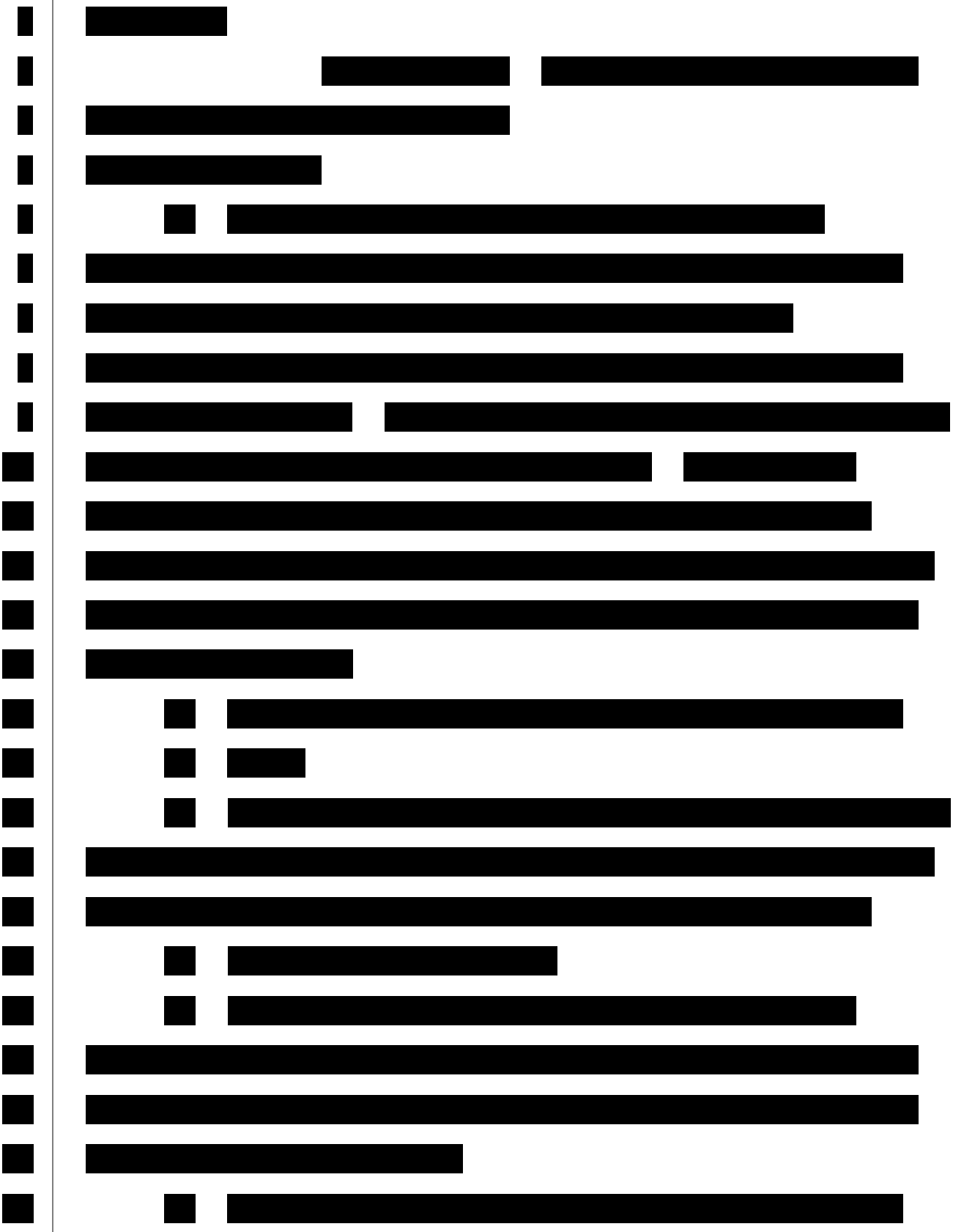
A. Yes.

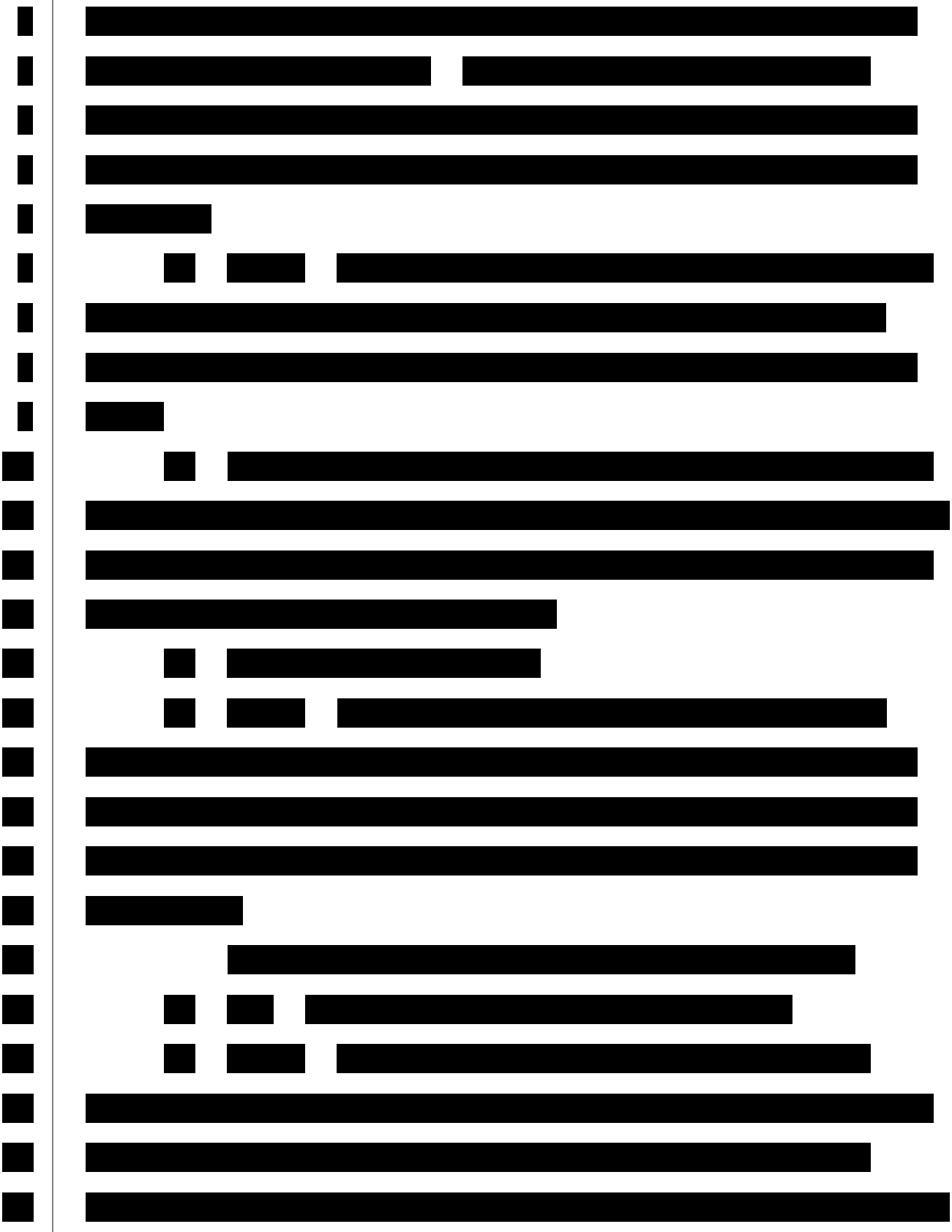
Q. So your understanding is that's also similar to Steam keys but for the Uplay platform?

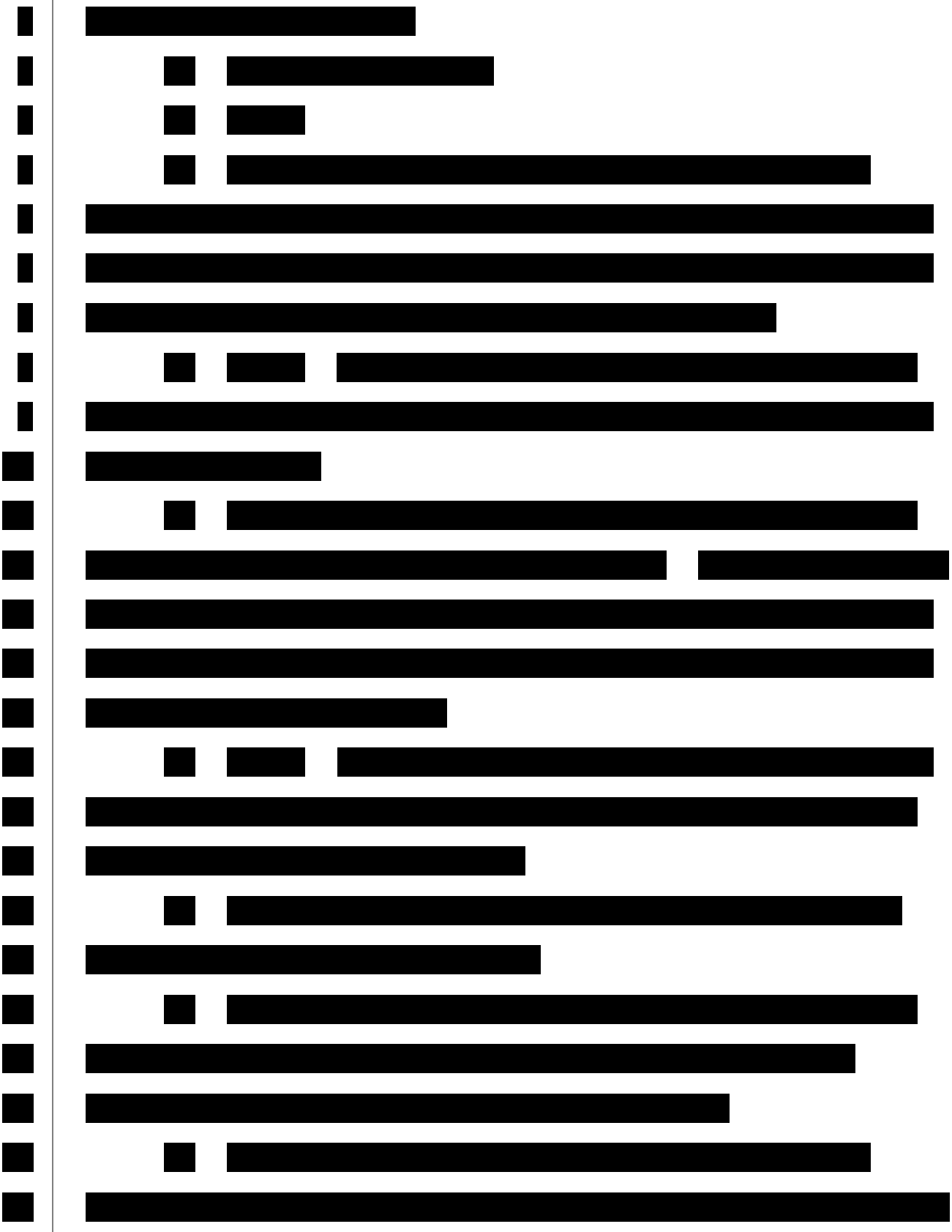
A. Yeah, I would assume so.

[redacted]









A. No.

Q. Great, thank you.

Now, are you -- when Valve makes Steam key sales or when a customer purchases a game with Steam key, what sort of information is Valve able to obtain from that purchase or activation?

MR. CASPER: I object to the question as being beyond the scope of the designation. We have designated another witness for Steam keys, not Mr. Powers.

BY MR. WOLFSON:

Q. Okay, do you know in your personal capacity?

MR. CASPER: His personal deposition was yesterday, not today. That's over. So he's here to testify on 30(b)(6) issues today, and that's not one of them.

MR. WOLFSON: Well, I think this is relevant to one of his topics, and I can be even more specific.

BY MR. WOLFSON:

Q. Does Valve monitor data collected from the Steam key process to monitor the prices at which publishers are selling games on other stores?

A. I'm not sure I understand the question you're asking.

Q. When determining whether a publisher is selling a game for less elsewhere than it sells on Steam, does Valve use data that it collects from Steam key activations?

A. No.

Q. Okay. Does Valve help justify its policies with respect to parity by using data collected from Steam keys?

MR. CASPER: I object to the form of the question.

THE WITNESS: What kind of parity are you talking about?

BY MR. WOLFSON:

Q. Content, price.

A. We don't have a price parity policy.

Q. Do you have a content parity policy?

A. In the SDA, yes.

Q. And do you have a policy that if someone sells a product for less elsewhere that Valve will often not promote the game or stop selling them altogether?

A. The policy is that we ask for a fair deal for customers on other platforms. Or on Steam, relative to games.

Q. What about a practice? Let's not go with the official term "policy," but is there a practice at

Valve of often opting not to promote games or stop selling them altogether if they're sold for less elsewhere?

A. In the rare occurrences where we're made aware that the game is being sold on another platform for a lower price, our practice is to have a conversation with the publisher.

Q. And to literally opt not to promote the game or to stop selling it altogether?

MR. CASPER: Object to the form of the question.

THE WITNESS: Our practice is to have a conversation with the developer.

BY MR. WOLFSON:

Q. And use the threat of not promoting them or stop selling it altogether to get them to either raise the price elsewhere or lower the price on Steam, right?

A. Our practice is to have a conversation with the developer to understand why the price is lower elsewhere and see if we can figure out a way to get Steam's price to a similar price that it is on other platforms.

Q. And if they refuse to lower the Steam price?

A. If we get to a situation -- again, this is rare. If we get to a situation where a partner is

telling us that the price needs to be lower on other platforms than it is on Steam, then we will typically choose not to run curated marketing during times where that game is being discounted, if that is where the price is lower, or around a launch if it's a around -- if it's a price at launch time.

Q. And you said the "rare instance." The reason that's rare is because usually what happens is the publisher gets in line, right?

A. No, it's rare because we have tens of thousands of games on Steam. Publishers set their own prices on Steam. We just don't run into the issue very often.

Q. But it happens often enough that there are folks within Steam -- including Mr. Peterson, Mr. Giardino, Ms. Carroll -- who do deal with that and have these conversations, as you've termed it, with the publishers.

A. When it comes up we have a conversation with the developer, yeah.

Q. And this is not only for small companies but some of the biggest companies that make video games, right?

A. We treat all partners equally so if we come across this problem where there is a customer

disadvantage on Steam, then we're going to have a conversation with the partner.

Q. Okay. And just to make sure I'm understanding, Valve often opts not to promote a game or to stop selling it altogether if they're being sold elsewhere for a lower price, right?

A. Again, in the rare instance where we actually -- we have that conversation I'm describing, so the cadence of events is we are made aware of a situation where a price is lower elsewhere. In a significant way, not real close. We have a partner conversation, try to understand the issue, try to see if we can figure out a way to get Steam to a price that is similar to those other platforms.

If that conversation ends up in a place, which is even rarer still, but where the partner says that the price needs to be lower on these other platforms, for whatever their reasons are, our next step is typically not to run curated marketing because we don't want to lead customers into a bad decision.

Q. But Valve will literally tell developers, "If you don't get in line, we will not promote your game," or remove you altogether from Steam?

A. That is not our normal practice.

Q. Normal practice? How did you determine what

is your normal practice?

A. The way I interact with my partners and the way most Steam employees interact with their partners that I've -- any conversation that I've been a part of or most conversations I've been a part of, that is not the case. You've shown me an email where words like that have been said, so that's why I clarified.

Q. I've shown you multiple emails where words like that have been said, right?

A. I have three.

(Reporter clarification.)

MR. CASPER: I don't believe there is a question pending.

BY MR. WOLFSON:

Q. And yesterday you -- in your personal deposition, you were also shown multiple emails where words like that were used, right?

MR. CASPER: Object to the form of the question.

THE WITNESS: Yeah, I don't recall how many emails I saw yesterday.

BY MR. WOLFSON:

Q. Multiple emails where you, yourself, were one of the authors or recipients of emails telling customers -- I'm sorry, partners about the requirements

of pricing on Steam versus elsewhere, right?

A. Emails having conversations about a price that is lower elsewhere and trying to understand why that's the case.

Q. Okay. And part of these conversations is saying, hey, we're not going to offer you curated promotions if you keep doing that, right?

A. Part of our approach, if we get to a situation where we can't have pricing that is fair for Steam customers is not to amplify marketing with curated markets.

Q. But these conversations, as you know, also involve the threat not to keep the game on the Steam store at all; is that right?

A. That is not our typical process.

Q. All right.

(Exhibit 57 marked for identification.)

BY MR. WOLFSON:

Q. Mr. Powers, I've handed you a document bearing Bates -- it's marked Exhibit 57, bearing Bates Valve_ANT_0605087 extending through 5089. Feel free to take a review if you want.

A. Okay.

Q. Okay. So top level email on this, Mr. Giardino says to a publisher, [redacted]